

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK



JESSE J. ROBERITES,

Petitioner,

-v-

SUPERINTENDENT COLLY,

Respondent.

DECISION and ORDER
12-CV-176S

On October 18, 2013, the United States Court of Appeals for the Second Circuit affirmed this Court's dismissal, for failure to exhaust, of Jesse Roberites' petition for a writ of habeas corpus, but further ruled, in light of the delay in hearing petitioner's appeal of his conviction in state court, that the Court should issue a conditional writ ordering petitioner's release unless the appeal is decided by the New York State Appellate Division, Fourth Department by June 30, 2014. *See Roberites v. Colly*, 2013 U.S. App. LEXIS 21120 (2d Cir. Oct. 18, 2013) (unpublished). The Mandate was filed on October 29, 2013. (Docket No. 19).

ORDER

IT HEREBY IS ORDERED, that pursuant to the Second Circuit's Mandate (Docket No. 19), petitioner's petition for a writ of habeas corpus is **CONDITIONALLY GRANTED** and petitioner is **ORDERED** released unless his state court appeal of his convictions is decided by June 30, 2014;


FURTHER, that the Clerk of the Court is directed to enter judgment accordingly;

Further, that the Clerk of the Court is directed to transmit a copy of this Order to the New York State Appellate Division, Fourth Department;

Further, that the Clerk of the Court is directed to transmit a copy of this Order electronically via a Notice of Electronic Filing to Alyson Gill <Alyson.Gill@ag.ny.gov> and Arlene.Roces@ag.ny.gov> of the Office of the Attorney General, Federal Habeas Unit.

SO ORDERED

Dated: November 5, 2013
Buffalo, New York


WILLIAM M. SKRETNY
Chief Judge
United States District Court